



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Matthew J. Strickler  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas A. Faha  
Regional Director

**STATE AIR POLLUTION CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
GAITHERSBURG CABINETRY AND MILLWORK CO., INC.  
FOR  
Registration No. 40940**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Gaithersburg Cabinetry and Millwork Co., Inc. regarding the Gaithersburg Cabinetry and Millwork Co., Inc. Warrenton, Virginia Facility for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the Gaithersburg Cabinetry and Millwork Co., Inc. facility located at 4338 Aiken Drive in Warrenton, Virginia.

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5. "FCE" means Full Compliance Evaluation.
6. "Gaithersburg Cabinetry" means Gaithersburg Cabinetry and Millwork Co., Inc., a corporation, authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Gaithersburg Cabinetry is a "person" within the meaning of Va. Code § 10.1-1300.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
10. "Permit" means a Stationary Source Permit to modify and operate a cabinetry assembly and coating operation issued under the Virginia Air Pollution Control Law and the Regulations to Gaithersburg Cabinetry and Millwork Co., Inc. on July 8, 2009.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Gaithersburg Cabinetry owns the Facility. The Facility is a cabinetry assembly and coating operation. The Facility is the subject of the Permit which allows Gaithersburg Cabinetry to modify and operate a cabinetry assembly and coating operation in Warrenton, Virginia.
2. On February 15, 2018, Department staff conducted a FCE of the Facility in Warrenton, Virginia for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the evaluation and follow-up information, Department staff made the following observations:
  - a. Gaithersburg Cabinetry had installed an additional Col-Met spray booth at the Facility. This equipment is not included in Gaithersburg Cabinetry's current Permit.



Based on information submitted by Gaithersburg Cabinetry, the spray booth was installed in February 2014.

3. 9 VAC 5-80-1120A states that no owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the board a permit under the provisions of this article. The owner may not construct or operate the stationary source or project contrary to the terms and conditions of the permit.
4. On March 6, 2018, based on the observations noted above, the Department issued Notice of Violation No. ANRO000813 to Gaithersburg Cabinetry for the violations described in paragraphs C(2) through C(3) above.
5. Gaithersburg Cabinetry submitted a permit application for the spray booth identified above to DEQ on April 27, 2018.
6. Based on the results of the February 15, 2018 FCE, the Board concludes that Gaithersburg Cabinetry has violated 9 VAC 5-80-1120A, as described in paragraphs C(2) through C(3), above.
7. In order for Gaithersburg Cabinetry to return to compliance, DEQ staff and representatives of Gaithersburg Cabinetry have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Gaithersburg Cabinetry and Millwork Co., Inc., and Gaithersburg Cabinetry Millwork and Co., Inc. agrees to pay a civil charge of \$14,066.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Gaithersburg Cabinetry and Millwork Co., Inc. shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Gaithersburg Cabinetry and Millwork Co., Inc. shall be liable for attorneys' fees of 30% of the amount outstanding.



**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Gaithersburg Cabinetry and Millwork Co., Inc. for good cause shown by Gaithersburg Cabinetry and Millwork Co., Inc. or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Gaithersburg Cabinetry and Millwork Co., Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Gaithersburg Cabinetry and Millwork Co., Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Gaithersburg Cabinetry and Millwork Co., Inc. declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Gaithersburg Cabinetry and Millwork Co., Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Gaithersburg Cabinetry and Millwork Co., Inc., shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible

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by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Gaithersburg Cabinetry and Millwork Co., Inc. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Gaithersburg Cabinetry and Millwork Co., Inc. shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Gaithersburg Cabinetry and Millwork Co., Inc. Nevertheless, Gaithersburg Cabinetry and Millwork Co., Inc. agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Gaithersburg Cabinetry and Millwork Co., Inc. has completed all of the requirements of the Order;
  - b. Gaithersburg Cabinetry and Millwork Co., Inc. petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Gaithersburg Cabinetry and Millwork Co., Inc..

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Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Gaithersburg Cabinetry and Millwork Co., Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Gaithersburg Cabinetry and Millwork Co., Inc. and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Gaithersburg Cabinetry and Millwork Co., Inc. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Gaithersburg Cabinetry and Millwork Co., Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Gaithersburg Cabinetry and Millwork Co., Inc..
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Gaithersburg Cabinetry and Millwork Co., Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 5<sup>th</sup> day of March, 2019.



Thomas A. Faha, Regional Director  
Department of Environmental Quality

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STEPHAN W. SMITH  
Gaithersburg Cabinetry and Millwork Co., Inc. voluntarily agrees to the issuance of this Order.

Date: 2/25/2019 By: [Signature] PRESIDENT  
(Person) (Title)  
[Gaithersburg Cabinetry and Millwork Co., Inc.]

Commonwealth of Virginia  
City/County of Fauquier

The foregoing document was signed and acknowledged before me this 25<sup>th</sup> day of  
February, 2019, by Stephan W. Smith who is  
President of Gaithersburg Cabinetry and Millwork, Co., Inc. on behalf  
of the corporation.

[Signature]  
Notary Public

136309

Registration No.

My commission expires: March 31, 2022

Notary seal:



## **APPENDIX A SCHEDULE OF COMPLIANCE**

Gaithersburg Cabinetry and Millwork Co., Inc. shall:

1. Respond to all requests for additional information regarding the Permit Application submitted to DEQ on April 27, 2018, within the time frame specified by DEQ in permitting correspondence.

### **2. Certification of Documents and Reports**

In accordance with 9 VAC 5-20-230(A), in all documents or reports submitted to DEQ pursuant to this Consent Order, Gaithersburg Cabinetry and Millwork Co., Inc. shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

### **3. DEQ Contact**

Unless otherwise specified in this Order Gaithersburg Cabinetry and Millwork Co., Inc. shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality  
Northern Regional Office  
Attention Enforcement  
13901 Crown Court  
Woodbridge, VA 22193